

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 1-19 remain in this application and, as amended herein, are submitted for the Examiner's reconsideration.

The specification has been amended to better conform to the requirements of U.S. practice. No new matter has been added by these amendments.

Claims 1 and 6 have been amended solely to have the claims better conform to the requirements of U.S. practice. None of these amendments is intended to narrow the scope of any of these claims, and no new matter has been added by these amendments.

In the Office Action, claims 1 and 6 were rejected under 35 U.S.C. § 102(e) as being anticipated by Sako '362 (U.S. Patent No. 6,947,362). Applicant submits that the claims are patentably distinguishable over the relied on sections of Sako '362.

Independent claims 1 and 6 have been amended to more clearly show the differences between the claimed features and the relied on art. No new matter has been added by these changes. Support for these changes is found at, e.g., Figs. 2-3 and pages 13-14 of the specification.

As amended herein, claim 1 recites:

recording the data on the recording media only when the read identifying information is the same as stored identifying information which was stored in the recording device prior to the reading step being carried out.

(Emphasis added.) The relied on sections of Sako '362 neither disclose nor suggest recording data on a recording media only when read identifying information (read from the recording media) is the same as stored identifying information which was

stored in the recording device prior to the reading step being carried out.

Rather, such sections of Sako '362 describe reading out a disk ID recorded in the DVD, then storing the read out disk ID in an EEPROM of the DVD player/recorder, and then storing data on the DVD. (See Fig.7 steps S32-S34, and col.10 11.5-14.) The relied on sections of the reference also describe reproducing data from the DVD when a read disk ID is the same as that recorded in the EEPROM of the DVD player/recorder. (See Fig.8 steps S41-S43, and col.10 11.26-36.) The relied on sections of Sako '362 are not concerned with recording data on the DVD when a disk ID read from the DVD is the same as a disk ID previously recorded in the EEPROM of the DVD player/recorder, i.e., a disk ID that was recorded in the EEPROM of the DVD player/recorder prior to reading out the disk ID from the DVD.

It follows, for at least the above reasons, that the relied on sections of Sako '362 do not disclose or suggest the combination defined in claim 1 and therefore do not anticipate the claim.

Independent claim 6 calls for features similar to those set out in the above excerpt of claim 1 and is therefore patentably distinguishable over the relied on sections of Sako '362 for at least the reasons set out above regarding claim 1.

Claims 3-5 and 17-19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sako '201 (U.S. Patent No. 6,134,201). Applicant submits that the claims are patentably distinguishable over the relied on sections of Sako '201.

As amended herein, claim 3 recites:

discriminating whether identifying information which identifies the recording media is recorded on the recording media; [and]

preparing the identifying information which

identifies the recording media *when the discriminating step discriminates that the identifying information is not recorded on the recording media*[.]

(Emphasis added.) As the Examiner acknowledges on pages 10-11 of the Office Action, the relied on sections of Sako '201 neither disclose nor suggest *discriminating whether identifying information which identifies a recording media is recorded on the recording media* and the relied on sections of Sako '201 neither disclose nor suggest preparing identifying information which identifies a recording media *when a discriminating step discriminates that the identifying information is not recorded on the recording media*.

It follows, for at least the above reasons, that the relied on sections of Sako '201 do not disclose or suggest the combination defined in claim 3 and therefore do not anticipate the claim.

Claims 4-5 depend from claim 3. Therefore, each of these claims is distinguishable over the relied on sections of Sako '201 at least for the same reasons.

Independent claims 17-18 have each been amended to call for features similar to those set out in the above excerpt of claim 3. Each of these claims is therefore patentably distinguishable over the relied on sections of Sako '201 for at least the reasons set out above regarding claim 3.

Independent claim 19 has been amended to more clearly show the differences between the claimed features and the relied on art. No new matter has been added by these changes. Support for these changes is found at, e.g., Fig. 2 and page 11 lines 11-19 of the specification.

As amended herein, claim 19 recites:

wherein the encoded data is encoded based on the identifying information and includes *first encoded data corresponding to a first musical piece and second encoded data corresponding to a second musical piece,*

the first encoded data being different than the second encoded data.

(Emphasis added.) The relied on sections of Sako '201 neither disclose nor suggest first encoded data corresponding to a first musical piece and second encoded data corresponding to a second musical piece. Moreover, the relied on sections of Sako '201 neither disclose nor suggest first encoded data (corresponding to a first musical piece) being different than second encoded data (corresponding to a second musical piece).

It follows, for at least the above reasons, that the relied on sections of Sako '201 do not disclose or suggest the combination defined in claim 19 and therefore do not anticipate the claim.

Regarding the rejections under 35 U.S.C. § 103(a), (i) claims 2 and 7-10 were rejected as being unpatentable over Sako '362 in view of Sako '201, and (ii) claims 11-16 were rejected as being unpatentable over Sako '201 in view of Sako '362. However, under 35 U.S.C. § 103(c), Sako '362 is disqualified from being relied on as prior art for the purpose of showing obviousness.

The present application is a national stage application under 35 U.S.C. § 371 of International Application No. PCT/JP2004/001094, filed February 4, 2004, which claims priority from Japanese Application No. P2003-033998, filed February 12, 2003.

Sako '362 was published on September 30, 2005 and is a divisional of an application filed on June 24, 1999 and therefore, as noted on Page 2 of the Office Action, Sako '362 qualifies as prior art under 35 U.S.C. § 102(e). Sako '362 is assigned to Sony Corporation, the assignee of the present application. Both Sako '362 and the present application were thus owned by Sony Corporation at the time of the invention disclosed and claimed in the present application. Therefore,

Sako '362 is disqualified under 35 U.S.C. § 103(c) from being relied on as prior art for the purpose of showing obviousness.

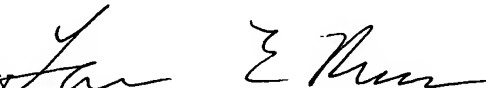
Accordingly, Applicant respectfully requests the withdrawal of the rejections under 35 U.S.C. §§ 102(b), 102(e), and 103(a).

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: December 29, 2008

Respectfully submitted,

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